

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re: ZYPREXA PRODUCTS LIABILITY : MDL No. 1596
LITIGATION :
-----X

THIS DOCUMENT RELATES TO: :

DERRICK BROWN, PERSONAL :
REPRESENTATIVE OF THE ESTATE OF : No. 08-cv-3249 (JBW)
DOROTHY BROWN, DECEASED :

Plaintiff, :

v. :

NOXUBEE GENERAL HOSPITAL, :
BAPTIST MEMORIAL HOSPITAL – :
GOLDEN TRIANGLE, ELI LILLY AND :
COMPANY, AND JOHN DOES 1-5 :

**DEFENDANT ELI LILLY AND
COMPANY’S OPPOSITION TO
PLAINTIFF’S MOTION TO STAY
DISCOVERY**

Defendants.

-----X

**DEFENDANT ELI LILLY AND COMPANY’S
OPPOSITION TO PLAINTIFF’S MOTION TO STAY DISCOVERY**

Defendant Eli Lilly and Company (“Lilly”) submits this Opposition to Plaintiff’s Motion to Stay Discovery and in support thereof states as follows:

A stay of discovery is both unnecessary and prejudicial to Lilly. Eighteen months have now passed since this case was commenced on October 22, 2007. To date, plaintiff has not complied with the obligation to serve a plaintiff’s fact sheet and accompanying authorizations for the release of medical records. *See* Letter from P. Tomasco to B. Turner (Apr. 16, 2009) (attached hereto as Exhibit “A”). Plaintiff has failed to do so despite transfer of this case to the Multi-District Litigation on August 11, 2008, three separate written reminders to provide the fact sheet and authorizations, and the Court’s explicit instruction in its recent Order that the case

against Lilly proceed in Discovery Group 10. *Brown v. Noxubee Gen. Hosp.*, No. 08-3249, 2009 WL 1044508, at *8 (E.D.N.Y. Apr. 15, 2009); *see also* Case Management Order No. 32 (setting September 28, 2009 deadline for completion of fact discovery in Discovery Group 10 cases) (attached hereto as Exhibit “B”). Lilly cannot begin to prepare its defense or expect to meet the Court’s deadline without immediate production of decedent’s medical records and disclosure of the names and addresses of decedent’s prescribing physicians and dispensing pharmacies.

Further, plaintiff will not be prejudiced by going forward now with discovery which it will, inevitably, have to provide at a later date. Under any scenario with Lilly as a defendant, plaintiff will at a minimum have to respond to interrogatories (in the form of a Plaintiff’s Fact Sheet or otherwise), provide authorizations for the release of medical records as well as any medical records in plaintiff’s possession, produce copies of any Zyprexa®-related documents in plaintiff’s possession, submit to depositions of plaintiff and other fact witnesses, provide a case-specific expert liability report, and defend the deposition of plaintiff’s expert. Plaintiff’s unsubstantiated fear of duplicative discovery should not impede development of this record.

Lilly’s ability to initiate case-specific discovery and to prepare a full evaluation of this case, including development of a case-dispositive motion, should not be delayed further. Plaintiff decided to bring this lawsuit and should be required to pursue it promptly despite any pending appeal. Lilly, therefore, respectfully requests that this Court deny plaintiff’s Motion to Stay Discovery.

Respectfully Submitted,

/s/ Peter J. Tomasco

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Kenneth H. Zucker
Peter J. Tomasco
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and

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New York, NY 10018-1405
(212) 808-2700

Attorneys for Defendant
Eli Lilly and Company

DATED: May 4, 2009

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2009, a copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system, which will provide electronic notice of the same to counsel.

/s Peter J. Tomasco
Peter J. Tomasco

EXHIBIT A

Pepper Hamilton LLP
Attorneys at Law

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April 16, 2009

Via First Class Mail and Electronic Mail

Bennie L. Turner, Esquire
Turner & Associates, PLLC
P.O. Drawer 1500
West Point, Mississippi 39773-1500
blt@bturnerlaw.com

Re: In re: Zyprexa Products Liability Litigation, MDL No. 1596
Derrick Brown v. Noxubee General Hospital, et al., No. 08-cv-3249 (JBW)

Dear Counsel:

I write on behalf of defendant Eli Lilly and Company ("Lilly") in response to your letter of April 14, 2009. You noted that you viewed discovery as stayed pending a ruling on the motion to remand by a district court judge.

While we disagree with your interpretation that discovery has been stayed, Judge Weinstein has now denied the motion to remand, and noted that the case will proceed against Lilly in Discovery Group 10. Given our numerous attempts to secure compliance with your obligation to provide a Plaintiff's Fact Sheet, we are under no obligation to extend the deadline further.

Nevertheless, we reiterate our demand that plaintiff complete and serve on Lilly's counsel the Court-approved Plaintiff's Fact Sheet and its accompanying HIPAA-compliant authorizations. Please contact me if you require us to re-send these materials, which were previously provided by our firm on August 20, 2008 and March 24, 2009.

Please provide these materials as soon as possible, but in no event later than **Monday, April 27, 2009**. Failure to do so will result in Lilly seeking the intervention of the

Philadelphia Boston Washington, D.C. Detroit New York Pittsburgh

Berwyn Harrisburg Orange County Princeton Wilmington

www.pepperlaw.com

Bennie Turner, Esq.

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April 16, 2009

Court, which may include sanctions, up to dismissal of the case pursuant to Case Management Order No. 16. Please contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter J. Tomasco". The signature is written in a cursive, flowing style.

Peter J. Tomasco

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

In re: ZYPREXA	:	MDL No. 1596 (JBW) (RLM)
PRODUCTS LIABILITY LITIGATION	:	
<hr/>		
THIS DOCUMENT RELATES TO:	:	
CASES LISTED IN ATTACHED	:	
EXHIBITS 1-7	:	

CASE MANAGEMENT ORDER NO. 32

(Discovery and Motion Schedule)

Case Management Order No. 30, dated August 19, 2008, provided discovery and motion schedules for most of the then still pending Zyprexa personal injury cases that had been transferred to the Eastern District of New York from other jurisdictions under the standing order of the Judicial Panel on Multidistrict Litigation. Since that order was issued, numerous of the cases governed by that order have been settled or dismissed voluntarily, and new cases have been transferred to this district from other jurisdictions. Accordingly, following a conference call on February 10, 2009, with the Special Discovery Master and various participating counsel for plaintiffs and Lilly, and following circulation of a draft of this order with exhibits, this Case Management Order No. 32 amends the discovery groups and schedules previously set forth in Case Management Order No. 30, and sets forth discovery and motion schedules for those Zyprexa personal injury cases that are listed in the attached exhibits.

This Order does not affect any deadlines for Discovery Groups 1 through 4, which were the subject of Case Management Order No. 31 issued December 30, 2008, except that plaintiff William Knight has been moved from Discovery Group 4 to Discovery Group 6.

DISCOVERY GROUP 5

1. This schedule applies to the claims in Discovery Group 5, which are identified in Exhibit 1 attached hereto. If any case assigned to Discovery Group 5 is dismissed before the end of the fact discovery period, Lilly or plaintiffs may request that another claim be added to this Discovery Group.

2. Fact discovery shall be completed by April 24, 2009.

3. It is expected that each plaintiff in Discovery Group 5 has already been deposed. Any plaintiff who has not yet had his or her deposition taken shall promptly provide to Lilly, no later than March 11, 2009, a date for the taking of the plaintiff's deposition, to take place in March 2009. Lilly will then notice the deposition for the date selected, unless Lilly objects within seven days of receiving notice of this proposed date. If plaintiff does not provide

an alternate date within seven days of Lilly's objection, Lilly may notice the deposition for a date in March 2009, of its choosing. Plaintiff's deposition will take place within a reasonable distance of his or her residence.

4. No later than ten days following plaintiff's deposition, Lilly shall notify plaintiff of the family members, friends, and/or other fact witnesses (aside from plaintiffs prescribing and treating physicians) Lilly wishes to depose. Within ten days of receiving this notice, plaintiff shall (1) provide a date for each requested deposition, or (2) serve an objection to the taking of the deposition with an explanation for the basis of the objection. If, within these ten days, plaintiff has failed to provide a deposition date or object to the taking of the deposition, Lilly may subpoena the witness and notice the deposition for a date of its choosing.

5. Lilly shall notify plaintiff of the prescribing and treating physicians Lilly wishes to depose. Plaintiff will have fourteen days from the date of receiving this notice to contact each of these physicians to secure a date for his or her deposition, to take place within 45 days of Lilly's request (but no later than the close of fact discovery for this Discovery Group). If plaintiff fails to provide a date for a deposition within these fourteen days, Lilly, after advising plaintiff that no deposition date has been received by Lilly, may contact the physician to schedule a date for the deposition.

6. Plaintiffs Rule 26 case-specific liability expert reports shall be served on or before March 27, 2009. Any previously-served or new generic expert reports on which plaintiff intends to rely shall be identified at the same time. Plaintiff shall provide a date for the case-specific expert witness's deposition at the time of service of the report. For those experts whose reports plaintiff has already served, plaintiff shall provide, by no later than March 27, 2009, dates for their depositions. If, following service of a plaintiff's case-specific expert report, plaintiff believes that supplementation of the expert report is necessary in light of subsequently taken discovery, plaintiff may apply to the Special Discovery Master for leave to supplement. Lilly may oppose any such request.

7. Lilly's Rule 26 case-specific liability expert reports shall be served on or before May 12, 2009. Lilly shall provide a date for the case-specific expert witness's deposition at the time of service of the report. Any previously-served or new generic expert reports on which Lilly intends to rely shall be identified at the same time.

8. Depositions of case-specific liability expert witnesses shall be completed by June 1, 2009.

9. Dispositive motions or motions to remand shall be filed no later than June 15, 2009. Responsive papers shall be filed no later than June 25, 2009 and reply papers, if any, shall be filed no later than June 29, 2009.

10. Dispositive motions and motions to remand will be heard July 1, 2009.

DISCOVERY GROUP 6

1. This schedule applies to the claims in Discovery Group 6, which are identified in Exhibit 2 attached hereto. If any case assigned to Discovery Group 6 is dismissed before the end of the fact discovery period, Lilly or plaintiffs may request that another claim be added to this Discovery Group.

2. Fact discovery shall be completed by May 22, 2009.

3. It is expected that each plaintiff in Discovery Group 6 has already been deposed. Any plaintiff who has not yet had his or her deposition taken shall promptly provide to Lilly, on or before March 11, 2009, a date for the taking of the plaintiff's deposition, to take place on or before April 10, 2009. Lilly will then notice the deposition for the date selected, unless Lilly objects within seven days of receiving notice of this proposed date. If plaintiff does not provide an alternate date within seven days of Lilly's objection, Lilly may notice the deposition for a date in April 2009, of its choosing. Plaintiff's deposition will take place within a reasonable distance of his or her residence.

4. No later than ten days following plaintiff's deposition, Lilly shall notify plaintiff of the family members, friends, and/or other fact witnesses (aside from plaintiffs prescribing and treating physicians) Lilly wishes to depose. Within ten days of receiving this notice, plaintiff shall (1) provide a date for each requested deposition, or (2) serve an objection to the taking of the deposition with an explanation for the basis of the objection. If, within these ten days, plaintiff has failed to provide a deposition date or object to the taking of the deposition, Lilly may subpoena the witness and notice the deposition for a date of its choosing.

5. Lilly shall notify plaintiff of the prescribing and treating physicians Lilly wishes to depose. Plaintiff will have fourteen days from the date of receiving this notice to contact each of these physicians to secure a date for his or her deposition, to take place within 45 days of Lilly's request (but no later than the close of fact discovery for this Discovery Group). If plaintiff fails to provide a date for a deposition within these fourteen days, Lilly, after advising plaintiff that no deposition date has been received by Lilly, may contact the physician to schedule a date for the deposition.

6. Plaintiff's Rule 26 case-specific liability expert reports shall be served on or before April 17, 2009. Any previously-served or new generic expert reports on which plaintiff intends to rely shall be identified at the same time. Plaintiff shall provide a date for the case-specific expert witness's deposition at the time of service of the report. For those experts whose reports plaintiff has already served, plaintiff shall provide, by no later than April 17, 2009, dates for their depositions. If, following service of a plaintiff's case-specific expert report, plaintiff believes that supplementation of the expert report is necessary in light of subsequently taken discovery, plaintiff may apply to the Special Discovery Master for leave to supplement. Lilly may oppose any such request.

7. Lilly's Rule 26 case-specific liability expert reports shall be served on or before June 9, 2009. Lilly shall provide a date for the case-specific expert witness's deposition

at the time of service of the report. Any previously-served or new generic expert reports on which Lilly intends to rely shall be identified at the same time.

8. Depositions of case-specific liability expert witnesses shall be completed by July 3, 2009.

9. Dispositive motions or motions to remand shall be filed no later than July 17, 2009. Responsive papers shall be filed no later than July 27, 2009 and reply papers, if any, shall be filed no later than July 31, 2009.

10. Dispositive motions and motions to remand will be heard August 4, 2009.

DISCOVERY GROUP 7

1. This schedule applies to the claims in Discovery Group 7, which are identified in Exhibit 3, attached hereto.

2. Fact discovery shall be completed by June 22, 2009.

3. It is expected that each plaintiff in Discovery Group 7 has already been deposed. Any plaintiff who has not yet had his or her deposition taken shall provide to Lilly, on or before April 1, 2009, a date for the taking of the plaintiff's deposition, to take place in April 2009. Lilly will then notice the deposition for the date selected, unless Lilly objects within seven days of receiving notice of this proposed date. If plaintiff does not provide an alternate date within seven days of Lilly's objection, Lilly may notice the deposition for a date in May 2009, of its choosing. Plaintiff's deposition will take place within a reasonable distance of his or her residence.

4. No later than ten days following plaintiff's deposition, Lilly shall notify plaintiff of the family members, friends, and/or other fact witnesses (aside from plaintiff's prescribing and treating physicians) Lilly wishes to depose. Within ten days of receiving this notice, plaintiff shall (1) provide a date for each requested deposition, or (2) serve an objection to the taking of the deposition with an explanation for the basis of the objection. If, within these ten days, plaintiff has failed to provide a deposition date or object to the taking of the deposition, Lilly may subpoena the witness and notice the deposition for a date of its choosing.

5. Lilly shall notify plaintiff of the prescribing and treating physicians Lilly wishes to depose. Plaintiff will have fourteen days from the date of receiving this notice to contact each of these physicians to secure a date for his or her deposition, to take place within 45 days of Lilly's request (but no later than the close of fact discovery for this Discovery Group). If plaintiff fails to provide a date for a deposition within these fourteen days, Lilly, after advising plaintiff that no deposition date has been received by Lilly, may contact the physician to schedule a date for the deposition.

6. Plaintiffs Rule 26 case-specific liability expert reports shall be served on or before May 8, 2009. Any previously-served or new generic expert reports on which plaintiff

intends to rely shall be identified at the same time. Plaintiff shall provide a date for the case-specific expert witness's deposition at the time of service of the report. For those experts whose reports plaintiff has already served, plaintiff shall provide, by no later than May 8, 2009, dates for their depositions. If, following service of a plaintiffs case-specific expert report, plaintiff believes that supplementation of the expert report is necessary in light of subsequently taken discovery, plaintiff may apply to the Special Discovery Master for leave to supplement. Lilly may oppose any such request.

7. Lilly's Rule 26 case-specific liability expert reports shall be served on or before July 7, 2009. Lilly shall provide a date for the case-specific expert witness's deposition at the time of service of the report. Any previously-served or new generic expert reports on which Lilly intends to rely shall be identified at the same time.

8. Depositions of case-specific liability expert witnesses shall be completed by July 31, 2009.

9. Dispositive motions or motions to remand shall be filed no later than August 14, 2009. Responsive papers shall be filed no later than August 24, 2009 and reply papers, if any, shall be filed no later than August 28, 2009.

10. Dispositive motions and motions to remand will be heard September 1, 2009.

DISCOVERY GROUP 8

1. This schedule applies to the claims in Discovery Group 8, which are identified in Exhibit 4 attached hereto. If any case assigned to Discovery Group 8 is dismissed before the end of the fact discovery period, Lilly or plaintiffs may request that another claim be added to this Discovery Group.

2. Fact discovery shall be completed by August 3, 2009.

3. Each plaintiff shall provide to Lilly by May 1, 2009, a date for the taking of plaintiff's deposition, to take place in or before May 2009. Lilly will then notice the deposition for the date selected, unless Lilly objects within seven days of receiving notice of this proposed date. If plaintiff does not provide a date by May 1, 2009, Lilly may notice the deposition for a date in June 2009 of its choosing. Plaintiff's deposition will take place within a reasonable distance of his or her residence.

4. No later than ten days following plaintiffs deposition, Lilly shall notify plaintiff of the family members, friends, and/or other fact witnesses (aside from plaintiffs prescribing and treating physicians) Lilly wishes to depose. Within ten days of receiving this notice, plaintiff shall (1) provide a date for each requested deposition, or (2) serve an objection to the taking of the deposition with an explanation for the basis of the objection. If, within these ten days, plaintiff has failed to provide a deposition date or object to the taking of the deposition, Lilly may subpoena the witness and notice the deposition for a date of its choosing.

5. Lilly shall notify plaintiff of the prescribing and treating physicians Lilly wishes to depose. Plaintiff will have fourteen days from the date of receiving this notice to contact each of these physicians to secure a date for his or her deposition, to take place within 45 days of Lilly's request (but no later than the close of fact discovery for this Discovery Group). If plaintiff fails to provide a date for a deposition within these fourteen days, Lilly, after advising plaintiff that no deposition date has been received by Lilly, may contact the physician to schedule a date for the deposition.

6. Plaintiff's Rule 26 case-specific liability expert reports shall be served on or before June 19, 2009. Any previously-served or new generic expert reports on which plaintiff intends to rely shall be identified at the same time. Plaintiff shall provide a date for the case-specific expert witness's deposition at the time of service of the report. For those experts whose reports plaintiff has already served, plaintiff shall provide, by no later than June 19, 2009, dates for their depositions. If, following service of a plaintiff's case-specific expert report, plaintiff believes that supplementation of the expert report is necessary in light of subsequently taken discovery, plaintiff may apply to the Special Discovery Master for leave to supplement. Lilly may oppose any such request.

7. Lilly's Rule 26 case-specific liability expert reports shall be served on or before August 18, 2009. Lilly shall provide a date for the case-specific expert witness's deposition at the time of service of the report. Any previously-served or new generic expert reports on which Lilly intends to rely shall be identified at the same time.

8. Depositions of case-specific liability expert witnesses shall be completed by September 11, 2009.

9. Dispositive motions or motions to remand shall be filed no later than September 25, 2009. Responsive papers shall be filed no later than October 5, 2009 and reply papers, if any, shall be filed no later than October 9, 2009.

10. Dispositive motions and motions to remand will be heard October 14, 2009.

DISCOVERY GROUP 9

1. This schedule applies to the claims in Discovery Group 9, which are identified in Exhibit 5 attached hereto. If any case assigned to Discovery Group 9 is dismissed before the end of the fact discovery period, Lilly or plaintiffs may request that another claim be added to this Discovery Group.

2. Fact discovery shall be completed by August 31, 2009.

3. Each plaintiff shall provide to Lilly by June 1, 2009, a date for the taking of plaintiffs deposition, to take place in or before June 2009. Lilly will then notice the deposition for the date selected, unless Lilly objects within seven days of receiving notice of this proposed date. If plaintiff does not provide a date by June 1, 2009, Lilly may notice the deposition for a

date in July 2009 of its choosing. Plaintiff's deposition will take place within a reasonable distance of his or her residence.

4. No later than ten days following plaintiff's deposition, Lilly shall notify plaintiff of the family members, friends, and/or other fact witnesses (aside from plaintiff's prescribing and treating physicians) Lilly wishes to depose. Within ten days of receiving this notice, plaintiff shall (1) provide a date for each requested deposition, or (2) serve an objection to the taking of the deposition with an explanation for the basis of the objection. If, within these ten days, plaintiff has failed to provide a deposition date or object to the taking of the deposition, Lilly may subpoena the witness and notice the deposition for a date of its choosing.

5. Lilly shall notify plaintiff of the prescribing and treating physicians Lilly wishes to depose. Plaintiff will have fourteen days from the date of receiving this notice to contact each of these physicians to secure a date for his or her deposition, to take place within 45 days of Lilly's request (but no later than the close of fact discovery for this Discovery Group). If plaintiff fails to provide a date for a deposition within these fourteen days, Lilly, after advising plaintiff that no deposition date has been received by Lilly, may contact the physician to schedule a date for the deposition.

6. Plaintiff's Rule 26 case-specific liability expert reports shall be served on or before July 17, 2009. Any previously-served or new generic expert reports on which plaintiff intends to rely shall be identified at the same time. Plaintiff shall provide a date for the case-specific expert witness's deposition at the time of service of the report. For those experts whose reports plaintiff has already served, plaintiff shall provide, by no later than July 17, 2009, dates for their depositions. If, following service of a plaintiff's case-specific expert report, plaintiff believes that supplementation of the expert report is necessary in light of subsequently taken discovery, plaintiff may apply to the Special Discovery Master for leave to supplement. Lilly may oppose any such request.

7. Lilly's Rule 26 case-specific liability expert reports shall be served on or before September 15, 2009. Lilly shall provide a date for the case-specific expert witness's deposition at the time of service of the report. Any previously-served or new generic expert reports on which Lilly intends to rely shall be identified at the same time.

8. Depositions of case-specific liability expert witnesses shall be completed by October 9, 2009.

9. Dispositive motions or motions to remand shall be filed no later than October 23, 2009. Responsive papers shall be filed no later than November 3, 2009 and reply papers, if any, shall be filed no later than November 9, 2009.

10. Dispositive motions and motions to remand will be heard November 13, 2009.

DISCOVERY GROUP 10

1. This schedule applies to the claims in Discovery Group 10, which are identified in Exhibit 6 attached hereto. If any case assigned to Discovery Group 10 is dismissed before the end of the fact discovery period, Lilly or plaintiffs may request that another claim be added to this Discovery Group.

2. Fact discovery shall be completed by September 28, 2009.

3. Each plaintiff shall provide to Lilly by July 1, 2009, a date for the taking of plaintiffs deposition, to take place in or before July 2009. Lilly will then notice the deposition for the date selected, unless Lilly objects within seven days of receiving notice of this proposed date. If plaintiff does not provide a date by July 1, 2009, Lilly may notice the deposition for a date in August 2009 of its choosing. Plaintiff's deposition will take place within a reasonable distance of his or her residence.

4. No later than ten days following plaintiffs deposition, Lilly shall notify plaintiff of the family members, friends, and/or other fact witnesses (aside from plaintiffs prescribing and treating physicians) Lilly wishes to depose. Within ten days of receiving this notice, plaintiff shall (1) provide a date for each requested deposition, or (2) serve an objection to the taking of the deposition with an explanation for the basis of the objection. If, within these ten days, plaintiff has failed to provide a deposition date or object to the taking of the deposition, Lilly may subpoena the witness and notice the deposition for a date of its choosing.

5. Lilly shall notify plaintiff of the prescribing and treating physicians Lilly wishes to depose. Plaintiff will have fourteen days from the date of receiving this notice to contact each of these physicians to secure a date for his or her deposition, to take place within 45 days of Lilly's request (but no later than the close of fact discovery for this Discovery Group). If plaintiff fails to provide a date for a deposition within these fourteen days, Lilly, after advising plaintiff that no deposition date has been received by Lilly, may contact the physician to schedule a date for the deposition.

6. Plaintiff's Rule 26 case-specific liability expert reports shall be served on or before August 13, 2009. Any previously-served or new generic expert reports on which plaintiff intends to rely shall be identified at the same time. Plaintiff shall provide a date for the case-specific expert witness's deposition at the time of service of the report. For those experts whose reports plaintiff has already served, plaintiff shall provide, by no later than July 31, 2009, dates for their depositions. If, following service of a plaintiff's case-specific expert report, plaintiff believes that supplementation of the expert report is necessary in light of subsequently taken discovery, plaintiff may apply to the Special Discovery Master for leave to supplement. Lilly may oppose any such request.

7. Lilly's Rule 26 case-specific liability expert reports shall be served on or before October 13, 2009. Lilly shall provide a date for the case-specific expert witness's deposition at the time of service of the report. Any previously-served or new generic expert reports on which Lilly intends to rely shall be identified at the same time.

8. Depositions of case-specific liability expert witnesses shall be completed by November 7, 2009.

9. Dispositive motions or motions to remand shall be filed no later than November 20, 2009. Responsive papers shall be filed no later than November 30, 2009 and reply papers, if any, shall be filed no later than December 4, 2009.

10. Dispositive motions and motions to remand will be heard December 8, 2009.

DISCOVERY GROUP 11

All of the cases in which plaintiffs represent themselves without an attorney are assigned to this Group. The Special Master will confer with the Court to devise a schedule for these cases.

New York, New York

March 3, 2009



Peter H. Woodin
Special Discovery Master

EXHIBIT 1

CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 5

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Asbury, William 06-CV-1593	Lowell W. Finson PHILLIPS & ASSOCIATES lowellf@phillipslaw.ws	Asbury, William	1	USDC of KS 06-CV-2032
Belcher Tynesha, et al. 06-CV-2780	Lowell W. Finson PHILLIPS & ASSOCIATES lowellf@phillipslaw.ws	Tynesha Belcher John Blume Eric W. Fuller Cecilia Guillen	4	USDC SD of CA 06-CV-442
Bost, Ricky 06-CV-1952	Gustine J. Pelagatti GUSTINE J. PELAGATTI & ASSOCIATES pelagattilaw@gmail.com	Bost, Ricky	1	USDC ED of PA 06-CV-871
Cerrato, Robert C. 07-CV-2669	Brian R. Cunha BRIAN CUNHA & ASSOCIATES brian@briancunha.com	Cerrato, Robert C.	1	USDC of MA 07-CV-112670
Chavez, Yolanda, individually and o/b/o Johnny Salazar-Nunez, et al. 06-CV-2592	Lowell W. Finson PHILLIPS & ASSOCIATES lowellf@phillipslaw.ws	Gove, Judith Head, James Washington, Darlene	3	USDC of AZ 06-CV-577
Cocklin, Sr., Richard Lee 07-CV-2669	Brian R. Cunha BRIAN CUNHA & ASSOCIATES brian@briancunha.com	Cocklin, Sr., Richard Lee	1	USDC of RI 07-CV-1570
Duncan, James 06-CV-459	John G. Kelly LAW OFFICES OF JOHN G. KELLY, P.C. jklawoffices@aol.com	Duncan, James	1	USDC ND of IL 05-CV-6476
Edmond, Timothy 06-CV-9150	Robert W. Kerpsack ROBERT W. KERPSACK CO., L.P.A. bob@rwklaw.com	Edmond, Timothy	1	USDC SD of OH 07-CV-12157
Folse, Charlene H., o/b/o Joshua Folse 04-CV-1612	Benjamin P. Mouton MCGLYNN GLISSON ben@mcglynnnglisson.com	Charlene H. Folse o/b/o Joshua Folse	1	USDC WD of LA 03-CV-1888
Griffith, Robert 06-CV-6888	James H. Cook DUTTON, BRAUN, STAACK & HELLMAN, P.L.C. cookj@wloolaw.com	Griffith, Robert	1	USDC ND of IA 06-CV-3059

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Leary, Marissa 07-CV-3608	Laura K. Goddard GODDARD, SCUTERI & DELANEY lgoddard@gsd-law.com	Leary, Marissa	1	USDC of MA 07-CV-11031
Williams, Erin 07-CV-3914	Lowell W. Finson PHILLIPS & ASSOCIATES lowellf@phillipslaw.ws	Williams, Erin	1	USDC CD of CA 07-CV-959
Total			17	

EXHIBIT 2

CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 6

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Berry, Lucille 07-CV-4847	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Berry, Lucille	1	USDC CD of CA 07-CV-6417
Earl, Arlene 07-cv-3912	Michael D. Ermert HARE, WYNN, NEWELL & NEWTON, LLP mike@hwynn.com	Earl, Arlene	1	USDC ND of AL; 07-cv- 1465
Harvard, Adrienne 06-CV-5335	Benjamin Levine LEIFER LEVINE & ASSOCIATES LarryLLeifer@verizon.net	Harvard, Adrienne	1	USDC of NJ 06-CV-2799
Knight, William 06-cv-6894	DON K. LEDGARD Capretz & Associates Dledgard@capretz.com	Knight, William	1	USDC of MN 06-cv-4464
Total			4	

EXHIBIT 3

CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 7

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Abitang, Romeo 06-CV-3456	Michael P. Cascino CASCINO VAUGHAN LAW OFFICES, LTD. michaelp.cascino@gmail.com	Abitang, Romeo	1	USDC ND of IL 06-CV-1750
Amabile, Mary 06-CV-3455	Michael P. Cascino CASCINO VAUGHAN LAW OFFICES, LTD. michaelp.cascino@gmail.com	Amabile, Mary	1	USDC ND of IL 06-CV-1749
Johnson, Kimberly J., individually and as guardian of Serenity Tamara Skinner, a minor, and Serenity Tamara Skinner 07-CV-2459	Stuart M. Axelrod AXELROD & ASSOCIATES, P.A. paralegal1968@sc.rr.com	Johnson, Kimberly J., individually and as guardian of Serenity Tamara Skinner, a minor, and Serenity Tamara Skinner	1	USDC of SC 06-CV-2994
Quirarte, Sonia o/b/o Estate of Daniel Resendez 07-CV-1161	Bruce M. Bozich LAW OFFICES OF BRUCE M. BOZICH brucebozich@sbcglobal.net	Quirarte, Sonia o/b/o Estate of Daniel Resendez	1	USDC ND of IL 07-CV-190
Sexton, Charles and Kaye Sexton, individually and as representatives of the Estate of Scott Sexton 07-CV-4507	Clay Dugas CLAY DUGAS & ASSOCIATES aallen@claydugas.com	Sexton, Charles and Kaye Sexton, individually and as representatives of the Estate of Scott Sexton	1	USDC ED of TX 07-CV-645
Trimble, Floyd 06-CV-3457	Michael P. Cascino CASCINO VAUGHAN LAW OFFICES, LTD. michaelp.cascino@gmail.com	Trimble, Floyd	1	USDC ND of IL 06-CV-1751
Total			6	

EXHIBIT 4**CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 8**

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Busby, Armand 07-CV-4848	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Busby, Armand	1	USDC WD PA 07-CV-1308
Cestare, Anthony 06-CV-0442	Edward J. Garnett Riconda & Garnett, LLP	Cestare, Anthony	1	USDC ED of NY 06-CV-0442
Cosca, Martin 04-CV-3796	Nancy Hersh Hersh & Hersh nhersh@hershlaw.com	Cosca, Martin	1	USDC CD of CA 04-CV-0528
Edwards, Marianna 07-CV-4849	Mario P. Melucci Gary F. Sharlock MARKS, O'NEILL, O'BRIEN & COURTNEY, PC	Edwards, Marianna	1	USDC WD of PA 07-CV-1357
Kane, James 07-CV-2383	Gale D. Pearson Stephen J. Randall PEARSON, RANDALL, & SCHUMACHER, P.A. attorneys@outtech.com	Kane, James	1	USDC of MN 07-CV-2261
Makupson, William 05-CV-0413	Samuel Butcher STEWART AND DECHANT	Makupson, William	1	USDC ND of OH 04-CV-2232
Sheffield, Joannae 06-CV-0756	O. Mark Zamora PAUL C. PARKER & ASSOCIATES	Sheffield, Joannae	1	USDC ND of GA 06-CV-0756
Smith, Patricia 06-CV-5059	Dan C. Stanley LAW OFFICES OF J.D. LEE, PLLC dan@danchanningstanley.com	Smith, Patricia	1	USDC ED of TN 05-CV-0407
Terry, David Alan, Sr. 06-CV-1469	Kenneth T. Fibich, Esquire W. Michael Leebron, Esquire FIBICH, HAMPTON, LEEBRON, LLP tfibich@fhl-law.com	Terry, David Alan, Sr.	1	USDC ED of TX 06-CV-0020
Total			9	

EXHIBIT 5

CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 9

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Gazelka, Peter, et al. 08-CV-1409	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Gazelka, Peter Rasmussen, Judith	2	USDC MN 08-CV-0576
Gurovitsch, Molly 08-CV-1408	Thomas J. Conlin CONLIN LAW FIRM LLC	Gurovitsch, Molly	1	USDC of MN 08-CV-0501
Houston, Carlette 08-CV-2946	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Houston, Carlette	1	USDC, CD of CA 08-CV-3071
Hulse, Carolyn 08-CV-0583	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Hulse, Carolyn	1	USDC ED of WA 07-CV-352
Leyva, Reuben 08-CV-1175	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Leyva, Reuben	1	USDC CD of CA 07-CV-8271
Paltell, Robert 08-CV-1947	Roger J. Bennett Joshua L. Friedman BENNETT & ALBRIGHT, P.A.	Paltell, Robert	1	USDC of MD 08-CV-0704
Pascal, Miriam 08-CV-1955	Ira Podlofsky PODLOFSKY HILL ORANGE & MODZELEWSKI, LLP	Pascal, Miriam	1	USDC SD of NY 08-CV-2040
Truechel, Robert 08-CV-1176	Thomas J. Conlin CONLIN LAW FIRM LLC	Truechel, Robert	1	USDC MN 08-CV-0418
Winston, Bickerton L. 08-CV-1407	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Winston, Bickerton L.	1	USDC of MN 08-CV-0372
Total			10	

EXHIBIT 6

CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 10

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Auditor, Jose 08-CV-2948	Don K. Ledgard CAPRETZ & ASSOCIATES dledgard@capretz.com	Auditor, Jose	1	USDC WD of WA 08-CV-0845
Brown, Derrick, Personal Representative of the Estate of Dorothy A. Brown, Deceased 08-CV-3249	Bennie L. Turner TURNER & ASSOCIATES, PLLC firm@bturnerlaw.com	Brown, Derrick, Personal Representative of the Estate of Dorothy A. Brown, Deceased	1	USDC SD of MS 08-CV-006
Chavez, Yolanda, individually and o/b/o Johnny Salazar-Nunez, et al. 06-CV-2592	Lowell W. Finson PHILLIPS & ASSOCIATES lowellf@phillipslaw.ws	Kohnke, Kathleen o/b/o Ariana Portner, minor	1	USDC of AZ 06-CV-577
Gardner, Phillip Jerome 07-CV-04235	Joshua Erzin AUDET & PARTNERS jerzin@audetlaw.com	Gardner, Phillip	1	USDC, SD NY 07-CV-3982
Gaskins, Felicia 08-CV-05165	Robert Lewis, Jr.	Gaskins, Felicia	1	USDC ED of NC 08-CV-0201
Martin, Walker 09-CV-4104	Neal E. Shapero SHAPERO & ROLOFF CO., L.P.A. nshapero@shaperoroloff.com	Martin, Walker	1	USDC ND of OH 08-CV-01681
Meyers, George 08-CV-5247	Robert L. Tessler TOBEROFF, TESSLER & SCHOCHET, LLP	Meyers, George	1	USDC ED of NY 08-CV-5247
Polston, Kelly 08-CV-05166	Robert B. Ransom LEVENTIS & RANSOM bertcone@aol.com	Polston, Kelly	1	USDC of SC 08-CV-3639
Thompson, Pearl, et al. 08-CV-4103	Kevin M. Fitzgerald LEWIS SAUL & ASSOCIATES kfitzgerald@lewissaul.com	Saucier, Brian Thompson, Pearl Winslow, Theresa	3	USDC of ME 08-CV-0256
Total			11	

EXHIBIT 7

CASE MANAGEMENT ORDER NO. 32, DISCOVERY GROUP 11

Case Name and MDL Docket No.	Plaintiff's Counsel	Plaintiff(s)	No. of Plaintiffs	Court of Origin
Bergman, Kathy 04-CV-0146-R	Pro Se	Bergman, Kathy	1	USDC WD of KY 04-CV-0146
Billips, Alkim 07-CV-0114	Pro Se	Billips, Alkim	1	USDC SD of NY; 06-CV-4963
Brotherton, Pamela, et al. 05-cv-4692	Pro Se	Chapman, Teresa	1	USDC WD of MO 05-cv-4192
Chavez, Yolanda, individually and o/b/o Johnny Salazar-Nunez, et al. 06-CV-2592	Pro Se	Cullen, Linda	1	USDC of AZ 06-CV-0577
Dagliano, Joseph Scott 07-CV-2199	Pro Se	Dagliano, Joseph Scott	1	USDC ED of NY; 07-CV-2199
DiCiolla, Carlos 06-4731	Pro Se	DiCiolla, Carlos	1	USDC of NJ 05-CV-4570
Harris, Fred 06-CV-03481	Pro Se	Harris, Fred	1	USDC WD of PA 06-CV-0678
Jones, Frederick 05-CV-4922	Pro Se	Jones, Frederick	1	USDC ED of PA 05-CV-4922
Matera, Kenneth 06-CV-4637	Pro Se	Matera, Kenneth	1	USDC SD of IL 06-CV-0352-DRH
Martin, Robert 04-CV-2317	Pro Se	Martin, Robert	1	USDC SD of IL 04-CV-4067
McClamrock, Barry 04-CV-1613	Pro Se	McClamrock, Barry	1	USDC MD of NC 03-CV-0929
McElroy, Arthur 06-CV-5763	Pro Se	McElroy, Arthur	1	USDC of NE 06-CV-3154
Nicassio, Mario L. 06-CV-3475	Pro Se	Nicassio, Mario L.	1	USDC WD of PA 06-CV-00503
Shahin, Donna L. Whitehead, et al. 08-CV-576	Pro Se	Shahin, Donna	1	USDC SD of MD 07-CV-3433
Swiger, Shelly and Lisa 06-CV-6224	Pro Se	Swiger, Shelly	1	USDC ED of KY 06-CV-0208
Thompson, Billy James Jr. et al. 06-CV-2601	Pro Se	Spann, Rosie	1	USDC SD of IL 06-CV-0180-MJR
Williams, Andre 06-CV-02787	Pro Se	Williams, Andre	1	USDC ED of PA 06-CV-815
Total			17	